

Decision 04-12-030

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Into Implementation of Senate Bill 669, As It Affects California High-Cost Fund A; California High-Cost Fund B; Universal Lifeline Telephone Service Trust; Payphone Service Providers Enforcement; Telecommunications Devices for the Deaf Interim Placement Committee; Public Policy Payphone Program; and California Teleconnect Fund

Rulemaking 01-08-002
(Filed August 2, 2001)

**ORDER CORRECTING CLERICAL ERRORS IN
DECISION 04-05-032**

It has come to the Commission's attention that Appendix A of Decision (D.) 04-05-032 contains inadvertent clerical errors. The following corrections are made to Attachment A, Charter of the Payphone Service Providers Committee (PSPC), of this decision:

1. In section 3.8 of the PSPC charter, the term "Telecommunications Division" should be corrected as "Consumer Protection and Safety Division."
2. In sections 4.1, 4.2, and 5.7 of the PSPC charter, the term "Consumer Services Division" should be corrected as "Consumer Protection and Safety Division."

These corrections are clerical in nature and are therefore made by order of the Commission's Executive Director pursuant to Resolution A-4661.

Therefore, **IT IS ORDERED** that Attachment A of D.04-05-032 is corrected as described herein.

This order is effective today. Attached is the correction version of the
PSPC charter.

Dated December 10, 2004 at San Francisco, California.

/s/ STEPHEN LARSON

Stephen Larson
Executive Director

L/ice

Mail Date
12/13/04

Decision 04-12-030

ATTACHMENT

ATTACHMENT A
CHARTER
of the
PAYPHONE SERVICE PROVIDERS COMMITTEE
[As revised by D.04-__ - __]

1. ARTICLE ONE: NAME

1.1 Name. The name of this advisory board shall be California Payphone Service Providers Committee (PSPC or Committee).

2. ARTICLE TWO: PURPOSE

2.1 Purpose of the Committee. The purpose of the PSPC is to function, pursuant to Pub. Util. Code § 279(a), as an advisory board to advise the California Public Utilities Commission (Commission) regarding the development, implementation, and administration of programs to educate payphone service providers (PSPs), ensure compliance with the Commission's requirements for payphone operations, and educate consumers on matters related to payphones, as provided for in Commission Decision (D.) 90-06-018 and D.98-11-029, ~~and to provide for the placement of telecommunications devices capable of servicing the needs of the deaf or the hearing impaired in existing buildings and public accommodations, as specified in Pub. Util. Code §2881.2(a).~~ The PSPC is to carry out the programs under the Commission's direction, control, and approval.

2.2 Component Programs: Origins and Funding.

- (a) Payphone Service Providers Enforcement (PSPE) Program and Public Policy Payphone Program (PPPP). Commission (D.) 90-06-018, adopted June 6, 1990, and subsequent Commission orders established the PSPE Program as part of a settlement agreement to implement certain payphone tariff enforcement procedures and to improve the quality of privately owned pay telephone service in the State of California. The PSPE program was formerly known as the Customer Owned Pay Telephone (COPT) Enforcement program.

As a consequence of the Act and FCC Docket No. 96-128, local exchange carriers have implemented new arrangements whereby their payphone operations subscribe to the same tariffed exchange access line services to which independent Payphone Service Providers (PSPs) subscribe, subjecting the carriers payphone operations to the same obligations that apply to independent PSPs.

In D.98-11-029, adopted November 5, 1998, the Commission designated the PSPE Committee to assist the Commission in implementing a statewide PPPP. The Commission's action was taken pursuant to orders of the Federal Communications Commission (FCC) in FCC Docket No. 96-128. The FCC, in furtherance of its statutory responsibility under § 276(b)(2) of the Telecommunications Act of 1996 (Act), requires each state to review whether the state has adequately provided for public policy payphones in a manner consistent with FCC Docket No. 96-128 and to evaluate whether the state needs to take any measures to ensure that payphones serving important public interests will continue to exist in light of the elimination of subsidies and other competitive provisions under § 276 of the Act.

The PSPE Program and PPPP are each funded by a separate, uniform payphone surcharge rate adopted by the Commission. The Commission has ordered all PSPs to pay these surcharges on all of their pay telephone, or COPT, lines.

- ~~(b) Telecommunications Devices for the Deaf Interim Placement Committee Program (TPIC). By D.97-12-104, adopted December 16, 1997, the Commission established the TPIC to assist the Commission in implementing Pub. Util. Code § 2881.2. This statute requires the~~

~~Commission to design and implement a program providing for the Placement of Telecommunications Devices for the Deaf (TDDs) capable of servicing the needs of the deaf or hearing impaired in existing buildings, structures, facilities, and public accommodations through an appropriate committee under the Commission's control.~~

~~The TPIC program is funded by a surcharge, collected as part of the existing Deaf and disabled Telecommunications Program (DDTP) surcharge and segregated through separate accounting procedures. It may not exceed 0.02% of the DDTP surcharge.~~

3. ARTICLE THREE: MEMBERSHIP

3.1 Members. The PSPC shall be composed of five ~~seven~~ members consisting of each of the following representatives: a large, mid-sized or small local exchange carrier (LEC); two representatives, each affiliated with a different payphone association; a consumer organization, community based organization (CBO), senior group or individual with interest or expertise in the payphone area and universal service; ~~two representatives, each from different sectors of the deaf/hearing impaired or disabled communities;~~ and the Commission's Office of Ratepayer Advocates. Until the Commission's Executive Director makes these appointments in accordance with Section 3.2, the persons serving as members of the PSPE Committee and the Telecommunications Devices for the Deaf Interim Placement Committee Program (TPIC) on September 30, 2001 shall serve, beginning October 1, 2001, as interim members of the PSPC. The Chairs and Vice Chairs from the PSPE Committee and TPIC shall be coassigned to serve as Chairs and Vice Chairs of the PSPC on an interim basis.

3.2 Selection. Upon the establishment by the Commission of the number and qualifications of members of the PSPC pursuant to Pub. Util. Code § 271(a), members and alternates shall be nominated by the organizations or constituencies they are to represent. The Commission's Executive Director

shall select and approve members and alternates, in accordance with procedures adopted by the Executive Director.

3.3 Term of Appointment. A member shall hold office until a successor has been appointed and has assumed office or until the member has been removed in accordance with Paragraph 3.4 or has resigned in accordance with Paragraph 3.5. If for any reason, a member ceases to be a designated representative of the respective class or entity upon which his or her membership is based, the member's appointment shall terminate as of the date that affiliation ceases.

3.4 Removal. Any member may be removed at any time by the Commission or the Executive Director, in accordance with procedures adopted by the Commission. A majority of the PSPC members may recommend removal of a member upon demonstration of reasonable cause, provided, however, that reasonable cause may not include any policy position taken by a member as a member of the Committee. The Commission must approve the Committee's recommendation to remove any member.

3.5 Resignation. Any member may resign upon giving thirty (30) days written notice to the then acting Chair of the Committee. The member's appointment shall terminate upon the expiration of the thirty (30) day notification period.

3.6 Vacancies. The organizations or constituencies whose seat is vacated shall nominate individuals to fill that vacancy, and the selection and approval of the individual to fill that vacancy shall be made by the Commission's Executive Director. If the Committee is unable to identify a suitable candidate to fill the vacancy for any reason, the Commission or Executive Director may appoint a member of the class from which the vacancy occurs.

3.7 Indemnification. Members of the PSPC who are not Commission staff are uncompensated servants of the State of California within the meaning of Gov. Code § 810.2. Accordingly, the State will indemnify Committee members as it indemnifies its compensated employees and will provide them with

representation for their acts done within the course and scope of the services they perform for the PSPC, pursuant to Gov. Code §§ 815 -825.6 and 995 - 996.6. The PSPC budget may include the purchase of Errors and Omissions (E&O) and Directors and Officers (D&O) or similar insurance to indemnify Committee members for acts done within the course and scope of services performed for the PSPC, to the extent that such activities are held not to be indemnified by the State under Gov. Code §§ 810.2, 825 - 825.6 and/or 995 - 996.6.

3.8 Expenses and Per Diem. Members of the PSPC who are not employees of utilities, the Commission, or other governmental agencies of the State of California shall be entitled to reimbursement from the Committee Fund of reasonable expenses and/or per diem incurred in connection with their service on the Committee or subcommittees of the Committee authorized by the Commission, in accordance with Pub. Util. Code § 271(f). The per diem shall be \$300 for each day of meetings attended by the eligible members or \$200 if the meeting lasts for less than approximately two hours.

There shall be no per diem for preparation work. For each PSPC member who is an employee of a ~~non-State~~ governmental agency, trade association, or consumer group, payments for per diem and expense reimbursement related to the member's participation in the PSPC shall go to the member's employer unless the member can show justification for receiving these monies directly.

Eligible Committee members must seek reimbursement of travel expenses and per diem through the state's Travel Expense Claim (TEC) process. Completed TECs must be submitted to the Commission's ~~Telecommunications Division~~ *Consumer Protection and Safety Division* for review. The Director of the Telecommunications Division will assign a designated staff member to review, and if appropriate, approve payment.

Committee members shall not be eligible to receive intervenor compensation under Pub. Util. Code § 1801 et seq. for their work related to the PSPC.

4. ARTICLE FOUR: DUTIES AND RESPONSIBILITIES

4.1 Duties. The PSPC shall have the following duties and responsibilities. While performing these duties and responsibilities, Committee members at all times shall be subject to the direction, control and approval of the Commission. The Committee shall act in an advisory capacity to the Commission, which shall have all policy and program decision-making authority.

- a) Pursuant to Pub. Util. Code § 273(a), on or before June 1 of each year the PSPC shall submit a proposed budget to the Commission's ~~Consumer Services Division~~ *Consumer Protection and Safety Division*. The proposed budget shall include estimated program expenditures and the Committee's projected expenses for the fiscal year (July 1 to June 30) that will commence thirteen (13) months thereafter.
- b) Pursuant to Pub. Util. Code § 273(b), the PSPC shall submit quarterly reports to the Commission describing Committee activities during the prior quarter.
- c) Pursuant to Pub. Util. Code § 279(a), the PSPC shall advise the Commission regarding the development, implementation and administration of the PSPC programs, within the context of the Committee's purpose, as described in Paragraph 2.1.

4.2 Administrative, Legal and other Assistance: The Commission shall assign five Commission staff as liaisons to the PSPC for the purposes of providing administrative, legal and other assistance. These liaisons shall not be members of the Committee and shall have no vote.

- a) One liaison, from the Commission's ~~Consumer Services Division~~ *Consumer Protection and Safety Division*, or its successor, who shall be appointed by the Director of that division, shall facilitate advisory board meetings by scheduling the room for such meetings, preparing

agendas and meeting information packages, and taking and preparing minutes of the meetings.

- b) One liaison, from the Commission's Telecommunications Division, or its successor, who shall be appointed by the Director of that division, shall assist the Committee in the development of each proposed fiscal year program budget and in the preparation and filing of the annual report.
- c) One liaison, from the Commission's Information and Management Services Division, or its successor, who shall be appointed by the Director of that division, shall provide the Committee with monthly reports on the financial status of the program.
- d) One liaison, from the Commission's Legal Division, or its successor, who shall be appointed by the Commission's General Counsel, shall provide the Committee with legal advice, upon request.
- e) One liaison, from the Commission's Public Advisor's Office, or its successor, who shall be appointed by the Public Advisor, shall facilitate communication between the board and the public, generally, including any necessary or useful public outreach consistent with the board's purpose. The liaison shall ensure that the board is aware of any specific, program-related concerns or proposals, including those regarding the effectiveness of the programs, which have come to the Commission's attention and shall undertake any other tasks to assist the board in fulfilling its purpose as the Commission may formally or informally direct.

4.3 Conflict of Interest Rules. Until affirmed as the final rules or modified by Commission order, the PSPC shall comply with the Fair Political Practices Commission Conflict of Interest Code, 2 Cal. Code of Regulations, § 18730.

For purposes of applying these rules, all members of the PSPC shall be defined as “designated employees” required to disclose the following “economic interests”:

Any investment or business position in, or income from, any of the following:

1. An entity seeking to provide any product or service related to the Committee’s function or that has plans to come before the Committee to seek funds from the monies under the control of this group.
2. A parent or a subsidiary of an entity described in subsection (1).

5. ARTICLE FIVE: MEETINGS AND RECORDS

5.1 General. The PSPC shall act only in the course of a duly noticed meeting. The Committee shall meet at least quarterly. Notification of the date, place, and time of each meeting shall be given to each member and shall be published as required by the Bagley-Keene Open Meeting Act (Gov. Code §11120 et seq.) and in the Commission’s Daily Calendar at least ten (10) calendar days in advance of the meeting. Unless another location is stated in the notice, meetings shall be at the Public Utilities Commission Building in San Francisco. Notice shall include the name, address, and telephone number of a person who can provide additional information prior to the meeting, as well as a brief, general description of the business to be transacted and shall highlight important pending decisions, including those to be sent to the Commission for approval. The agenda, once published, shall not be revised ten (10) days prior to the meeting. The Committee may take action on an item of business not appearing on the published agenda, as long as the action is taken in accordance with Gov. Code § 11125.3.

5.2 Open Meetings. All meetings shall be open to the public and shall be held in accordance with the provisions of the Bagley-Keene Open Meeting Act. A

copy of the Act shall be given to every existing and new member of the Committee.

5.3 Quorum and Teleconferencing. A majority of the members of the Committee shall constitute a quorum for the transaction of business. The members may be present in person or by conference telephone to the extent consistent with state law regarding open meetings, so long as the place of the meeting is open to attendance by the public and so long as the meeting is conducted in a way that is consistent with the following requirements of Gov. Code § 11123:

- (a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided by [Part 1, Chapter 1, Article 9 of the Government Code].
- (b)(1) Nothing in Part 1, Chapter 1, Article 9 of the Government Code shall be construed to prohibit a state body from holding an open or closed meeting by teleconference if the convening at one location of a quorum of the state body is difficult or impossible, subject to all of the following:
 - (A) The teleconferencing meeting shall comply with all requirements of [Part 1, Chapter 1, Article 9 of the Government Code] applicable to other meetings.
 - (B) The portion of the teleconference meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.
 - (C) Each teleconference location shall be identified in the notice of the meeting and shall be accessible to the public.
 - (D) All votes taken during a teleconference meeting shall be by rollcall.
 - (E) The portion of the teleconference meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Government Code §11125.5.

- (F) At least one member of the state body be physically present at the location specified in the Notice of the meeting.

5.4 Committee Decisions. Each member present shall have one (1) vote.

Decisions shall be made by majority vote of those members present as long as a quorum is present at the time of the vote.

5.5 Authorization of Specified Alternates. The Executive Director may appoint an alternate, from the same interest group or constituency as each member (but who need not be a representative of the same entity or organization), who may attend an advisory board meeting and vote in lieu of a member who cannot attend. No other alternate, substitute or proxy representation of Committee members may occur.

5.6 Public Participation. The PSPC shall provide an opportunity for members of the public to address the Committee directly on each agenda item before or during the Committee's discussion or consideration of the item. The Committee shall provide a sign-up sheet for members of the public who wish to address the Committee. The sign-up sheet shall be available prior to the commencement of the public meeting and shall provide space for the name of the member of the public wishing to address the Committee, whom the individual represents, and the agenda item to be addressed. The Committee shall make its best efforts to recognize the public members during the appropriate comment periods at each meeting, consistent with the Committee's obligation to conduct business in an orderly manner.

5.7 Records. As provided in Paragraph 4.2 (a), the ~~Consumer services Division~~ *Consumer Protection and Safety Division* liaison shall record and prepare written minutes of PSPC meetings. A tape recording of the meetings may be made. The ~~Consumer Services Division~~ *Consumer Protection and Safety Division* liaison assigned to the task of preparing the written minutes shall submit them to the Committee at its next meeting for review and

approval. Written minutes shall: (a) identify the date, time, and place of the meeting; (b) identify the Committee members in attendance, and (c) contain a summary. Copies of the minutes shall be provided to the Commission or any interested party upon request.

5.8 Copies of the Committee's public documents that are subject to the Public Records Act may be requested from the Committee and the Committee shall provide them within a reasonable time.

6. ARTICLE SIX: OFFICERS

6.1 ~~Three~~ Two Officers. The PSPC shall have ~~three (3)~~ two (2) officers, ~~two Chairs who shall be coassigned a Chair~~ and a Vice-Chair, ~~all both~~ of whom shall be members of the Committee. ~~The coassigned chairs shall be the members representing, respectively, payphone associations and disabled persons/the deaf or hearing-impaired community.~~ The officers shall be elected by the members of the Committee to serve a term of one year, and they may be re-elected. An officer shall continue to hold office until a successor has been elected and assumed office. However, if an officer ceases to be the designated representative of a class or entity as described in Paragraph 3.3, the officer's appointment shall terminate upon the date that the officer's affiliation ceases.

6.2 Duties. The Chair~~s~~ shall be the executive officer~~s~~ and shall be responsible for the general supervision and direction of the affairs of the Committee. The Chair~~s~~ shall preside at all meetings of the Committee. In the absence of the Chair~~s~~, the Vice-Chair shall perform the duties of that office. If the Chair~~s~~ and Vice-Chair are unavailable for a meeting where a quorum nevertheless exists, the Chair~~s~~ may appoint a temporary Chair for that meeting. The officers shall perform such other duties as from time to time may be prescribed by the Committee, with the assistance of the Consumer Protection and Safety Telecommunications Division liaison, as needed.

7. ARTICLE SEVEN: EFFECTIVE DATE AND AMENDMENTS

7.1 Effective Date. This Charter shall become effective on the date it is approved by the Commission unless the Commission establishes a different effective date.

7.2 Amendments. This Charter may be amended by vote of the majority of the members of the PSPC and the amendment shall be submitted to the Commission for approval. No amendment shall be effective unless and until

the amendment has been approved by the Commission. This Charter is subject to amendment, termination or revocation at any time by order of the Commission.

8. ARTICLE EIGHT: LIMITATION ON POWER AND AUTHORITY

8.1 While the PSPC shall have the power and authority to function consistent with this Charter, and in particular, to carry out the duties and responsibilities specified in Article Four of this Charter, it shall not have the authority to direct telecommunications carriers to act or refrain from acting. Such authority shall remain solely with the Commission.

8.2 The members of the PSPC in the performance of their duties and in the actions taken by the Committee shall at all times be subject to the direction, control and approval of the Commission.

This Charter is hereby modified in response to OIR 01-08-002 issued August 2, 2001 and is executed on _____.

~~Chair (Coassigned)~~

~~Chair (Coassigned)~~

~~Vice-Chair (Coassigned)~~

~~Vice-Chair (Coassigned)~~

Member

Member

Member

Member